App F IX 4

Previous References
Rev 153-39 (1, 2, 4-6)
66 44 - 53 11

1947 48
(Rev)

File No 85 47
Serial Nos 1 3

Later References

GENERAL AND REVENUE SECRETARIAT

Serial Nos 1 to 0

Part B for (other)

SUBJECT

Execution of agreements by messrs Binny mills and Maharaja Mills for the use of the water of tanks for industrial purpose

---

8352

From the Municipal Comr Bangalore city

A1 1804/35, dated 17-5-46

states that the Maharaja Mills and the Bonny Mills, who have been using the water of the Jakkarayanakere tank, and Hosakere Agrahara tank, for industrial purposes, have not executed the agreements, inspite of several reminders, on some plea or other, and requests orders of Govt on the note furnished by the Municipal Advocate, stating that action in this behalf has to be taken by the Govt

1) The question of taking agreement from the above two Mill Authorities, for the use of the water from the tanks, is under correspondence since the year 1918

2) Government have in their order nos 7916-8 G.O.-176-16, dated 8-2-1918 and R 6990-5 L R 4844-17-24, dated,

(15) 2-6-1922, passed definite orders directing that agreements should be got executed by the Municipality, from the two Mills for the use of water of the said tanks, the proprietary right over which vested in the Municipality

3) On the above G.O of 2-6-1922, it was also ordered that the contention of the Companies that they had acquired a prescriptive and indefeasible right to the water on the ground of its uninterrupted use for long periods is untenable as against the Government

4) After a good deal of correspondence, the revised draft agreement to be executed by the above two Mills, were approved in G.Os dated 20-5-41, 25-9-41 and 23-10-44 (Flags S T W)

5) The right of using the water of these

lands was permitted by the Government when these lands were Govt property

6) The Mill Authorities are now contending that they are using the water of these lands for industrial purposes since the Mills were started and thus having acquired that right they want to retain it. This contention is not at all admissible in accordance with G.O. & Lg 22 referred to above

7) It is reported that they have not yet breached the Agreements, in spite of several references made to them, on some plea or other. Evidently they are adopting ~~dutt~~ tactics to gain time and to establish their so called prescriptive rights against the Municipality

8) This is perhaps a matter between the Municipality and the Mills Tenants to settle up

835 V

3360

9) The Municipal Council is not Law in favour of amending the approved draft Agreement form

10) The Law Section will be consulted in regard to the further course of action to be taken by Govt in the matter

11) The advice of the Law dept is necessary in this matter but maybe Manek

Re 316

received for 7/6/46

12) If the Municipality is unwilling or incapable of enforcing Govt orders, what is there to be done? Any way please Consult Law Section At this rate there will be no finality to anything

Sd 18/6/46 CO

13) In favour of opinion to the course to be taken as regards the circumstances of the case

Sd 18/6/46

Received for 18/6/46

13) The Question of the Mills for the deletion and insertion of certain words in the draft agreement are to the effect that their right to flow use of water as the town be safeguarded for ever

14) The Mills cannot claim the presumptive right to flow use of water without any encumbrance of the town on the prospect of the Crest, though their claim against the municipality appear to hold good However as seen from the correspondence and Gov Etc that the town has been treated as resting in Crest Even under s 53 (2) of the City Municipal Act 1933 all property of the water of per- in the such a (including town) and not by specially including Crest vests in and belongs to the municipality together with all other property held and applied by it as trustee The City Municipality has under powers in drainage and water works etc (under Cl IX)

Bunny Hill Mackay-Hill — 3280/Law

and especially in regard to
dangerous stagnant or insanitary
source of water supply (vide S 112 of
the City Improvement Act)

17) Easements in water can
arise either by grant express or implied,
or by prescription or custom or under
Statute In the absence of any grant
and in the absence of any conflicting
user as against Govt the Hill
cannot any claim any prescriptive
right (b) Even if there were under the
Public Health Act 1914 Govt can interfere
with insanitary source of water supply
In view of the power of Govt under the
Act, the Rights of the Hills
do not appear to be serious, if
any the works are ordered to be
changed the Municipal Council may
perhaps be consulted

MH to do
17) There ~~it~~ may enforce the Govt Order by refusing
access to the water until the Mills execute the agreements
(The Municipal Council is the owner of the tanks now and
the Mills are tenants) The claim of the Mills that they
have acquired prescriptive rights has been negatived in
the Govt Order of 1922

Land Secy) 21/6

21/6 — 1876 Hill

8332

18) The municipal admits as of opinion that the Mills have acquired a prescriptive right to the waters of the same by the municipality only be right can institute civil action to secure & enforce any payment they may require of the acquisition of prescriptive right by the Mills is not conceded, then it is possible for the municipality to stop the supply of water with a view to secure & enforce the agreement between the municipality & Mills

24/6

Ans seen, L S G)
w/c

24/6

25/6/46

19) A draft reply to the Municipal Engr accordingly is put up for Consideration

20) Refer Para 12 supra

Reversed
26/7/46

1/7
26/7

21) The draft is so vague & indefinite & gives no indication as to the two heads of Govt

1/7/46
9/7

26/7

22) A revised draft is put up for appl

Reversed
6/8/46

8/8/46

DI/7
SECTT

REV SECTT

835
L

To The Municipal Commissioner

L2279, dated 9-8-46

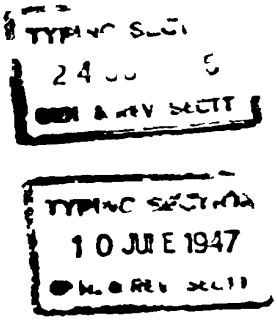
Calls for definite opinion of the Municipal Cl

A draft, reminder

To The Municipal Commissioner

Letter dt 26-10-46

Reminds



To The Municipal Commissioner

16401 dt 13-6-47

Reminds

From the Municipal Commissioner

1804 dt 18-6-47

States that the final opinion of the Municipal Cl will be intimated on receipt of the Report of the Special Committee

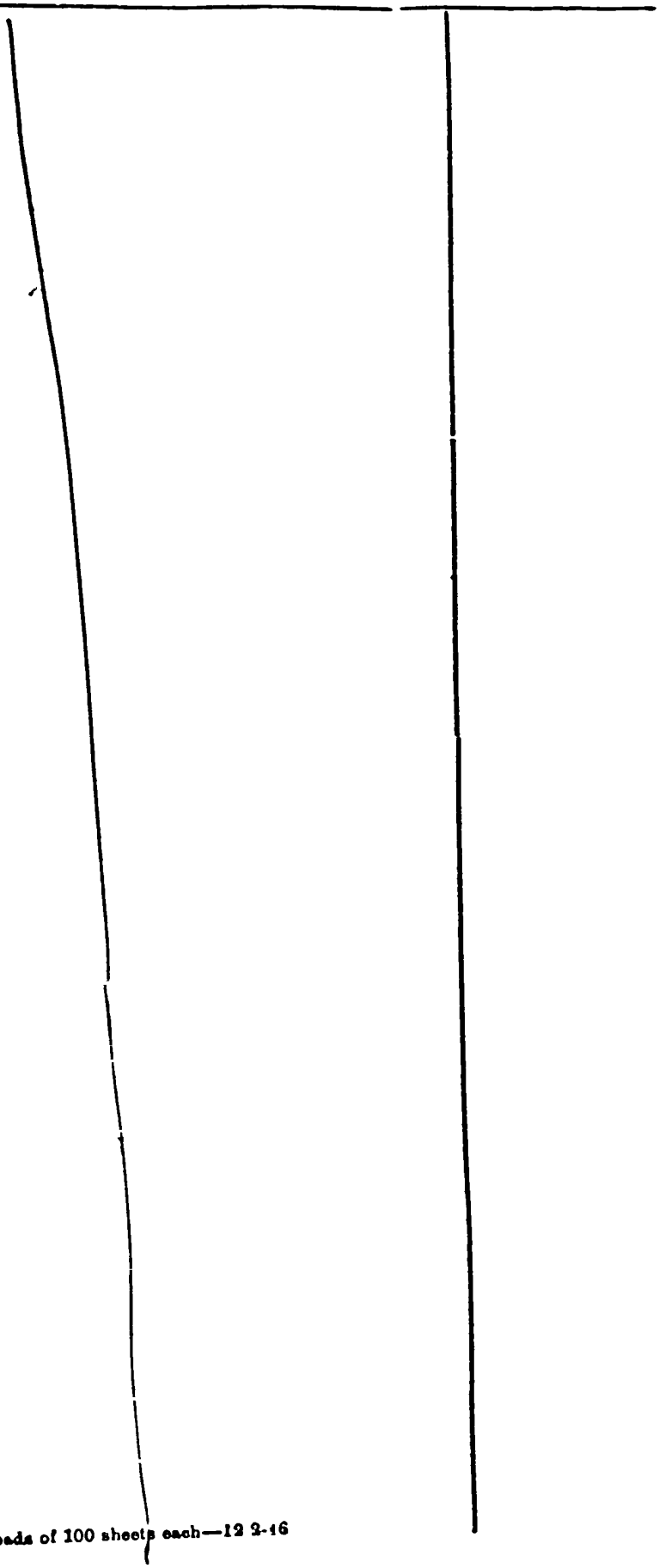
28) The receipt of further report from the Municipal Council will be awaited

29) In perusal

23/6

30) 25/6/47

petition from the General Manager



10096 ✓ 416

petition dated 21-7-47 received from the General Manager the Mysore Spinning and Manufacturing Co Ltd Bangalore protesting against the action of the Bangalore City Municipality in interfering with their rights of easement by breaching the waste weir of the tank and lowering the water level and requesting orders to protect the property rights of the Company, etc -

Minute of the Minister for Education dt 24

3 1) please ask the Municipal Commissioner to submit a report within 24 hr instant on the matter meanwhile a stay order may be given

I shall inspect the place on the 27th instant at 9 A M The Chief Engineer, Officers of the Trust Board and Municipality and the petitioners have to be present -

sd T C M R
22-7-47

3 2) Submitted with draft

3 3) Instructions - Minister

23/7/47

23/7/47 Pol & Exp

4165 4420 5 506

To

The Municipal Commr Bangalore City

1 Chief Engineer for Irrigation

1 Chairman C & T Board - Mysore

11 General Manager - The Mysore Iron & Steel Manufacturing Co - Bhadravati

1461-1469 dated 23-7-47

Gives instructions accordingly

(Guide para 31 Lubra)

From the Chief Engr for Irrigation

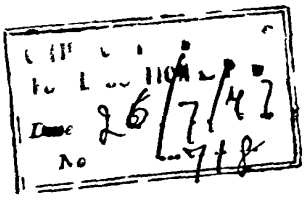
131 dated 23-7-47

States that he would be present at the inspection by the Minister for Education, H

From the Chairman, C & T Board Mysore

24/47 dated 25-7-47

States that he would be present at the spot with the Engineer Officer and the Assistant Engineer - Drainage Division



34 The file will be sent to the Office of the Minister for Education and Public Health

35) To The Personal Assistant to the Minister for Health & PH (L)

26/7 BRP 36) Returned for dl 28/7

37) Instructions of the Minister for Education and Public Health on 20th August 1947 :-

With a view to consider the several points urged by Mr B Shankara Rao, Advocate for the Mills (The Mysore Spinning and Manufacturing Coy , Ltd ,) in his note presented to the Minister for Education and Public Health on 30th July 1947 in connection with the use of the water of Jakkarayanakere Tank by the Mills and the lowering of the waste-weir of the said tank, a Committee consisting of the following officers and gentlemen be appointed to go into the question and submit a report to Government -

1 The Chief Engineer for Irrigation (Chairman)
2 " Chairman, City Improvement Trust Board, B'lore
3. " Director of Public Health in Mysore
4 Mr A J Khaleel, B A ,LL B , President Municipal Council Bangalore City
5 The Municipal Commissioner, - do -
6 " Government Architect
7 " Municipal Engineer, - do -
& 8 Representatives of the Mills

The meeting may be held in the Chambers of the Chief Engineer for Irrigation in Mysore, at 9 A M on 26th August 1947

MINISTER for Education & Public Health

21/8/47

37) Sd/- with a change

21/8

TYPING SECTION 22 AUG 1947 GOVT SECTT

VD 01570—CPB—500 pads of 100 sheets each—12 2 46

To

The Chairman T/S Public
Director of Public Health
Town Clerk
Municipal Engineer
Municipal Architect
All Engineers & others
concerned

3061-8, dt 22-8-47

Suggestion formation of a
Committee to examine the
question and submit a report
to Govt

Dms No 3061-47 dt 22-8-47

Issues a notice of the meeting
of Committee
To Mr Sheelcana Rao
11 Dept - Chief Engr
3076-87 - dt 22-8-47

Seeks information re the
meeting

8905 1310 5 1358

From the Chief Engineer for Irrigation

P.C. 69/6 dated 3-9-47

Fds a copy of the proceedings of the meeting of the Committee appointed to go into the question of the use of water by the Mysore Spinning and Manufacturing Co Ltd from Jakkarayana leave - held on 26-8-47 and forwards for sanction an estimate for Rs 3650- for giving water connection to the Mills, the expenditure being by the Government

From C E for Irrigation P.C. 62 d 28-8-47 Fds a copy of letter dated 26-8-47 received from the Chairman

4) It is reported by the Chief Engineer for Irrigation that the Mill Authorities are agreeable to take water to the Mills by tapping the raw water main from the Gorell Tollets, which is running close to the Mills and that the

Mills Authorities are agreeable to pay for the pipe line running in their compound

43 The Chief Engineer has forwarded for the approval of Govt an estimate for Rs 3650. for the 5" branch connection to Mysore Mills, the works being undertaken in anticipation of a regular agreement after the Mills come to an understanding

43 The Chief Engineer has recommended that the rate of unpuddled water supplied to the Mills may be fixed at annas five for 1000 gallons As a rate of eight annas for 1000 gallons is being charged to the Mysore Railways, it is for consideration if a deduction in the rate is called for in this case

44) The Executive Engineer, Water Supply Division

has recommended that the cost of the work (Rs 3650) be met under the head 39 Industrial Dharmarajasagar in the current year Budget

45) Powers for orders

1) whether the Authorities of the Mills may be addressed to communicate their consent

a) to take raw water from the 5" branch connection to the Mysore Mills from the 9" raw main, at annas eight per 1000 gallons

b) to pay for the pipe line running in their compound and beyond the meter installed there by the Dept

c) to execute a regular agreement in this behalf

2) whether the Chief Engineer may be permitted to execute the work in each caption of regular agreement after the Mills come

8905 1310

to our understanding

3) whether the cost of the proposed work may be met by grant or by the Municipal Council - as the idea is to drain off of the lands as a Public Health measure

4b) Refer para 38 Letter

5/9 JH

4a) in regard to the lowering of the waste weir of the Jukskeigemaakte dam, it was agreed that no further action need be taken this means the with authority have no objection to the lowering of the waste weir which has been done so far

4b) A copy of the proceedings will have to be sent to the Irrigation Board authority for formal approval in writing. This will be the estimate for 3850 for approved if approved

4c) The necessary water connections to the erfs must be approved, the

Charge being debited from the
head by Industrial Chemistry as per
in the current years State Budget
the work may be taken up in
anticipation of regular agreement
after the mills come to an
understanding. The mill authorities will
pay for the pipe line running in their
Compound & beyond the water supply dept
by the water supply dept

50) In regard to the wastewater
-ld be supplied, it is better that a
report comes from the mill authority to
51) The rate the same as Concession rate
may also be supplying
fixed at instead of a suggestion being advanced from
Rs 5/- per 1000 gallons the govt that it would be supplied at
10/9/47 a particular rate. It should be in the
nature of a gift from the Govt
for which a letter of thanks

Asst Secy to Govt 10/9/47

52 I agree with the above
Note Act of approved action
will be taken as proposed above
10/9/47 10/9/47

13/9/47

Minister
Regr & PW
&
Dewan
Thro' Secy
P W D

For perusal
8
11/9/47

1711
Date 13/9/47

53 Chf Engr may be asked to comply with the requirements regarding Para 4 also

"H"(a)
Nde 15-9-47
14-U O
15-9-47

U-O No 648/S
16/9/47

Proc
13-9-47
to Statistical Asstt HPS

SECRETARY TO GOVERNMENT
Date 19/9
HPS
P. W. & ELECTL & RYS

13/9/47

54) Returned with Compliments -
As indicated in my letter the Parks are prepared to pay the cost of the pipe line in their premises beyond the Meter. The cost of the branch from the 9" Raw water Main running parallel to the Parks + of the pipe line up to the Meter has to be met by Govt. This may kindly be
Approx. It is proposed to lay a 6" line as per 5" the proposals the cost as the Parks yearly
to keep Charges - Hence enquiries appx.
The Cost of O-S-O & it be the actual Cost of work + this may also be approx.
a Concessional rate in view of the Parks -
enjoying the use of water for the Fire Jakkaraya
for several years now

CRI
15/9/47

Rec'd with
Rew Secy
with Compliments
22 9 47

SECRETARY MINISTRY FOR AGRICULTURE AND PUBLIC WORKS
4 SE 1947
2418

5t) It seems to me that the rate of 0-5-0 per 1000 gallons proposed by the C E E is too low. A rate of annas eight per 1000 gallons basis is reasonable.

Dy. 24/9/47

Dewan)

57) I am sorry I did not notice the minute of the Minister for Education & P H stating that a rate of 0-5-0 per 1000 gallons may be fixed. He told me the circumstances in which it was fixed & have no objection to the proposal of the C E's.

24/9/47

58 Draft please

24/9

59) Submit with a draft letter.

RECEIVED
27 SEP 1947
SECT

25/9 P 25-9-47

60) Typed off in both languages please

26/9/47

WD 06877—GPB—5 000—9 8 47 A typed draft is submitted

Dr 27/9

6a) for approval
Reversing 27/9/47

b) for perusal before issue

OFFICE OF THE MINISTER FOR EDUCATION
Date 30/9
No 23.0.44

Minister Education & Dewan

30/9/47

2/10/47

3 OCT 1947
2480

b. 4/10 4/10

4 Issue 4/10/47

b) just before the order was issued, the Chief Engineer for Hydro wanted to see the file with the intention of reversing it but it was given to him he has made the following additions namely 2 paras 1 & 4 of the order respectively:—

a) Para 1 of the draft — addition — until

this road water is supplied

(b) Para 4 of the Supp- Corrections
Records be proposed to leave 2 or
"is also approved" were struck out
and the words "A" and "higher levels"
were substituted

(b) the above amendments were
submitted to the Minister for Edn
& P.H and have pleased to approve
of them

(c) the Supp with the above
amendments will be issued now

Perusal
7/10/47

(d) May issue

8
8/10/47

(e) The all-India
Inter States
Defence Conference & Allied
L CO 203-(L) d 8-10-47
Approves the Inter-State Rivers
& the Committee

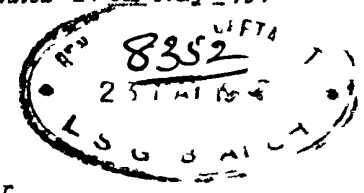
Sd/ [illegible]
P

WD 01570—GPB—500 pads of 100 sheets each—12 2 46

No A1 1804/35
Encl 1

CITY MUNICIPAL OFFICES

Bangalore dated 17th May 1946



FROM

SAFI DARASHAH ESQ B A
Municipal Commissioner
Bangalore City

To

J B Mallaradhya, Esq., M A ,
Secretary to the Government of Mysore,
Revenue Department, Bangalore

Re execution of agreements by M/s Binny Mills and Maharaja Mills for the use of water of tanks for industrial purposes

---

SIR

I have the honour to state that the draft of the agreement to be executed by the Maharaja Mills for the use of water of the "Jakkarayanakere" tank has been approved in G O No L 8385-89/M1 153-39 dated 20-5-1941 The draft of the agreement to be executed by the Binny mills for the use of water of the "Hosakere Agrahara" tank for industrial purposes has been approved in G O No L 2593-97/M1 153-89-6 dated 25-9-1941 Subsequently the Council proposed certain modifications in this agreement and the same were approved in Law Secretary's letter No L 3771 dated 23-10-1944

2 Though the authorities of both the mills were written to several times, they have not executed the agreements so far on some plea or other The authorities of the Maharaja mills have refused to execute agreement unless the words "Except in cases where the Municipality as the custodian of Public Health finds it absolutely necessary to do so' are deleted from clause "H" of the draft agreement The authorities of the Binny mills want the insertion of the words "without prejudice to the rights of the company" in clause "F" of the agreement

3 The suggestions made by the mills as stated above are not acceptable to the Council As such the opinion of the Municipal Advocate was called for as to

as to the further actinn to be taken in the matter He has explained in detail in his letter No M A 164/45-46 dated 2-5-1946 the reasons as to why the mills are urging for these modifications and further opined that effective action in this regard can be taken only by the Government at this distance of time A copy of the Municipal Advocate's letter referred to above is herewith enclosed for favour of orders of Government in the matter

I have the honour to be,
Sir,
Your most obedient servant,

Municipal Commissioner

hsr/-

Letter No M A 164/45-46 dated 2nd May 1946 from the Municipal Advocate, to the Municipal Commissioner, Bangalore City

---

Reference - Municipal Commissioner's memo No Al 1804-35 dated 26-8-45 re execution of agreement by M/s Binny Mills and Maharaja Mills for the use of water from the tanks

---

Regarding execution of agreement by the Binny Mills and the Maharaja of Mills for the use of water from the Agrahara and Jakkarayanakere tanks situated near their Mills and within the Municipal limits

The draft agreement proposed to be taken by the concerned parties were approved by the Government in their order No 7916-8 F C 176-17-8 dated 8th February 1918 and No L 6426-80/M L 153-39-2 dated 18/23 January 1940, and the Municipal Commissioner was directed to arrange for the taking of proper agreements from the concerned parties

The authorities of the Binny Mills have taken objection to the execution of the agreement on the ground that their right to the use of the water of the Agrahara Tank is unequivocally recognised by the Government hence they want the insertion of the words "without prejudice to the rights of the company" in clause "F" of the agreement

The draft agreement regarding Maharaja Mills was approved by Government in G O No L 8885-89/Ml 153-39-4 dated 20-5-1940

The Mill authorities have refused to execute the agreement unless the words "Except in cases where the Municipality as the custodian of public health finds it absolutely necessary to do so" are deleted from clause "H' of the draft agreement

The contention of both the Mills is that they are using the water of these tanks for industrial purposes since the Mills were started and thus having acquired that right they want to retain it

The right of using the water of these tanks was permitted by Government when these tanks were Government property

The question of taking the agreement from the Mills is pending since 1918, and at different stages draft agreements were sent to the authorities and at each stage objection is taken by the Mills for certain clauses, hence no agreements have been taken till now

P t o

The objection of the Mills for the deletion and insertion of certain words in draft agreements are to the effect that their right to the use of the water of those tanks, being safe guarded for ever

If the Mills want to claim any right for the use of water as a Prescriptive right they must have exercised that right for a period of 60 years against the Government and if they want to claim any such right against in Municipality they have to establish 20 years' use

The next question that has to be considered is whether the tanks in question vest in Govcrnment or in the Municipality

From the correspondence it is evident that these tanks are treat d as being vested in the Government, since it is clear from the correspondence that the Government approval has been obtained for the draft agreement and the Municipal Commissioner has been directed to arrange for the taking of the agreements

If the Mills claim the prescriptive right against the Government there is no completed user for the statuatory period of 60 years and as such they cannot claim any such completed right against Government

If they claim any prescriptive right against the Municipality, their right is complete because they are using the water for more than 20 years

The Municipal Act or the rules and the bye-laws framed thereunder do not throw any light and I am not in a position to state with refe rence to them what action the Municipality can take

Any effective action in this matter can be taken only by the Government on the basis that these tanks vest in the Government, and in that case the Mill authorities cannot plead that they have acquired any prescriptive right by user of the water for over a statutory period of 60 years

---

(Copy)

Municipal Commissioner

hsr/-

L 2279

To 8 9 8 46

The Municipal Commr

Bangalore city

Subj - Execution of the agreement by the authorities of The Binny and Maharaja Mills for the use of water of the adjoining tanks for industrial purposes

Sir,

With reference to your letter no A1 1804/35 dated 13-5-46 on the above subject, I am directed to observe that the claim of the above Mills to the effect that they have acquired prescriptive rights for the use of the water in the tanks, has been negatived in the marginally noted Govt orders & was open to the city Municipal Council to have enforced the provision of the above Govs by refusing

28-8-46
4-16
dated 8-28
6770-76 12
4-17-24
26-22

access to the water of these tanks until the Mills executed the Agreements in the prescribed form

It is however, seen that no such action was taken by the Municipal Council in time and that the Municipal Advocate has expressed the opinion that the Mills have acquired a prescriptive right to the water of the tanks, against the City Municipal Council by virtue of their continued use of water for more than 20 years

It is not clear from the above view of the Municipal Advocate has been Conceded by the City Municipal Council, and whether Govt may intervene and take action to secure and enforce any agreement they may require

I am therefore to request that the definite opinion of the City Municipal Council, on

the above views of the Municipal Advocate regarding the prescriptive rights of the mills over the water of these lakes may be kindly obtained and forwarded to Govt very early

Yours sincerely

7/8

Asst Revenue Secretary to Govt

LS/112 dt 26 10 46 10096

To

The Municipal Commr

Bangalore City

Execution of the agreement by the Authorities of the Binny and Mahadeva Mills, for the use of water of the adjoining tanks for industrial purposes

Sir,

In inviting reference to this office letter No L2279 dated 9-8-46 on the above subject, I am directed to request that the Opinion of the Municipal Council already called for

L. 16901
d 1364

Subj - Operation of the agreement by the authorities of the Bombay and Maharaja Mills, Limited for the use of water of the adjoining tanks for industrial purposes

Dear Sir,

In inviting reference to this office letter No L 2279 dated 9-8-46 and subsequent reminder No L 5112 dated 26-10-46 on the above subject I am desired to request that the opinion of the Municipal Commissioner called for, may be submitted to

Kiel

Yours, immediately as the Exercises
have been pending for a very long time

Yours sincerely

Sabri Darastah Esq
BA
Manchester
Barcelona

Gbg

Bangalore City Municipality

10096

No A1-1804/37
Encl one

MUNICIPAL OFFICES
Bangalore 18th June 1947

FROM

SAFI DARASHAH, ESQ., B.A.,
MUNICIPAL COMMISSIONER
BANGALORE CITY

To

Syed Abdul Aleem, Esq., B.A.,
Secretary to the Government of Mysore,
Revenue Department, Bangalore

Sir,

Subject Execution of the agreement by the authorities of the Binny and Maharaja Mills, for the use of water of the adjoining tanks for Industrial purposes

---

With reference to your letter No L 5112 dated 26-10-1946 and subsequent reminder No L 16901 dated 13-6-1947 thereon regarding the above subject, I have the honour to state that the Municipal Council at their meeting held on 7-12-1946 have called for a report from the Select Committee to be formed in this connection and that the latter has not yet met for this purpose Final opinion of the Municipal Council will be intimated on receipt of the report of the Special Committee

2 A copy of the resolution of the Council referred to above is enclosed for favour of reference

I have the honour to be,
Sir,
Your most obedient servant,

Municipal Commissioner

Forwarded with compliments

Honorary President

bsr/-

Proceedings of the meeting of the Municipal Council dated 7-12-1946

---

7 (Defd Sub No 22/23-9-46) Letter No L 2279 dated 9-8-1946 from the Revenue Secretary calling for the definite opinion of the Municipal Council on the opinion of the Municipal Advocate that the Binny Mills have acquired a prescriptive right to the water of the tanks adjoining the mills, in connection with the execution of the agreement by the Binny and Maharaja Mills for the use of the tank water

---

Mr H C Suryanarayana Rao observed that mere enjoyment of the water of the tank does not give any sort of prescriptive right to the Mill Authorities In the interest of Public Health which was of paramount importance, greater than the interest of the Mills, the water should be regulated If the Mill authorities still persist, then the unicipal Council should think of getting it completely under their control He suggested that this might be looked into the detail

Mr G Nanjappa supporting the above views said that this question might be referred to a Select Committee for going into detail and give a report

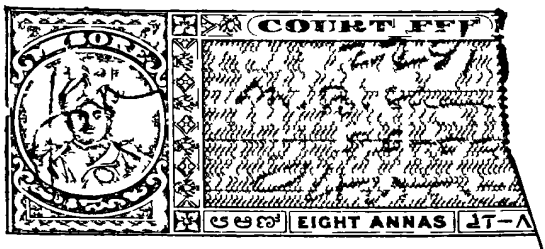
Mr M K Narayana Iyengar supported the suggestion of Mr G Nanjappa and it was finally resolved that this matter may be referred to an expert Committee consisting of Messrs M K Narayana Iyengar (Convenor), A J Khaleel, L S Raju and H S Narayana Rao and the Committee be requested to give its report in two weeks

Sd P Sivashankar,
Honorary President

"Copy"

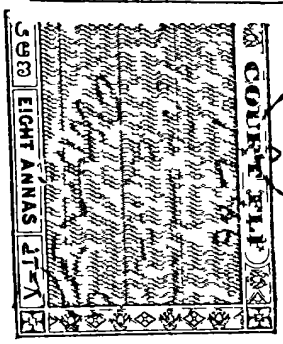
Municipal Commissioner

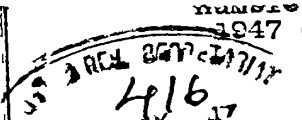
hsr/-



IN THE MATTER OF HIS HIGHNESS THE MAHARAJA OF MYSORE

Petition dated the 21st day of July 1947 of the Mysore Spinning & Manufacturing Co Ltd , Bangalore

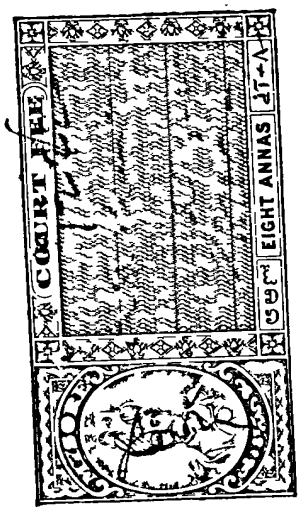




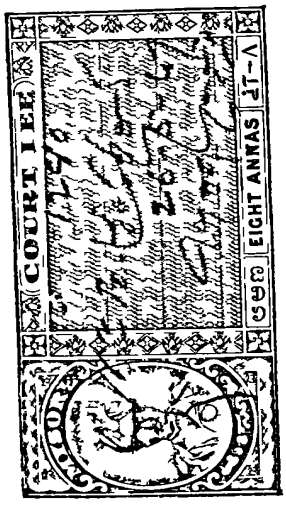
416

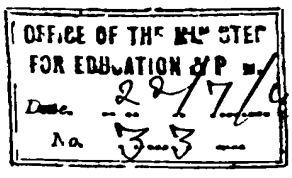
2 HUMBLY MOST RESPECTFULLY SHEWETH

For about 14-7-1947 your Petitioner Company noticed that the Waste Weir and the apron of the Jakkarayanakere were being dismantled under the orders of the Engineering Department of the City Municipal Council As this was bound to prejudice the water supply of your Petitioner Company's mills, your Petitioner Company made a representation to the Municipal Commissioner who visited the spot by appointment on the morning of 17-7-1947 In the course of the discussion the Municipal Commissioner told your Petitioner Company that the City Municipal Council had passed a resolution sometime ago that the Waste Weir of the tank should be lowered so as to reduce the water level in the tank by 3 feet as a permanent measure The Municipal Commissioner also stated that this action was being taken in the interests of the health and sanitation of the locality The further discussion, however, showed that the action was being taken really in the interests of certain landlords who are trying to develop the land to the East of the Platform Road (which must have been once a part of the tank bed) into a residential locality without raising the general ground level



2 Similar action was attempted in the years 1941, 1942 and 1943 But on protest by your Petitioner Company the work had been stopped Your Petitioner Company begs to annex hereunto a copy of a letter dated 12-8-1942 (together with the copy of the Government Order referred to therein No 7916/8/F & C 1776/17-18





dated 8-2-1913) which had been addressed by your Petitioner Company to the City Municipal Council in this connection Your Petitioner Company prays that these documents may be read as part of this humble petition in elucidation of your Petitioner Company's case

3 Your Petitioner Company submits that recently this matter has become a recurring controversy between the City Municipal Council and your Petitioner Company To put the case of your Petitioner Company in a nutshell Your Petitioner Company has been using the tank water for its manufacturing processes since the year 1834 when your Petitioner Company's mill or factory was first established on its present site Your Petitioner Company has thus acquired easement rights by ancient user and such easement rights were recognised by the Government of His Highness the Maharaja of Mysore under the Government Order referred to above

4 The Government Order constituted the President of the City Municipal Council the persona designata for obtaining the agreement from your Petitioner Company on the terms set out in the said Government Order The Government Order clearly shows that your Petitioner Company had acquired the right of user of the water in the tank and the Government had sanctioned such user free of cost Since the date of this Order your Petitioner Company has been making endeavours time and again to have the agreement drawn up and completed For one reason or the other the Municipal authorities have put it off

5 Matters came to a head when Mr Azeez Khan was the Municipal Commissioner Drafts of the agreement were exchanged by and between the Municipal Commissioner and your Petitioner Company The City Municipal Council insisted that liberty must be reserved to it in the agreement to lower the water level in the tank

by interfering with any portions of the tank including the Waste Weir Your Petitioner Company had (it is respectfully submitted) very properly and legitimately objected to the clause Eventually the then Dewan Mr Madhava Rao summoned the officers of your Petitioner Company and the Municipal Engineer for a conference in his presence over this matter and another matter outstanding between the Municipal Council and your Petitioner Company, viz D N Sirur Park and both these subjects were discussed threadbare At the end of the discussion, Mr Azeez Khan made your Petitioner Company's representatives definitely understand that he would have the clause in question deleted and have the agreement engrossed for execution Mr Azeez Khan was transferred soon afterwards and the matter lay over

6 Your Petitioner Company submits that this question of lowering the water level has been raised by the Municipality against the terms of the Government Order only within recent times If the agreement had been executed by and between the parties in 1918 or at any reasonable time thereafter there would have probably been no question about lowering the water level It is only after the vacant lands on either side of what is now called the Link Road were converted into a residential locality that this question has assumed importance Your Petitioner Company ventures to respectfully submit that the alleged danger to health and sanitation is only due to the failure of the City Municipality to provide proper drains for the sullage and sewage from the Link Road locality When the City Municipal Council attempted to lower the Waste Weir on previous occasions as stated above the ostensible ground for the action was shown as the possible danger to health and sanitation

on account of the open channel leading from the Sankey's tank to Jakkarayanakere through which the storm water in the atchkat and the sullage and sewage water from the Link Road are drained

7 In 1942 after the protest lodged by your Petitioner Company, Mr N R Seshadri Iyengar, the Special Officer, City Drainage Division, examined the question in all its aspects and suggested alternative works at a cost of R. 10,000/- A copy of his report which had been furnished to your Petitioner Company is also annexed hereunto for ready reference Your Petitioner Company does not propose to set out the substance of this report in its own words as the entire matter has been discussed from all aspects in the report Your Petitioner can only pray that the report also may be read as part of this petition The City Municipal Council did not carry out the work as suggested, though its officers obviously accepted Mr Seshadri Iyengar's conclusions

8 In the year 1945, the Municipal Council once again sought to interfere with the Waste Weir The proposal came to the notice of your Petitioner Company in time It was arranged that the Municipal Commissioner, the then engineer of the City Municipal Council Mr Madhavan, and the other concerned officers of the City Municipal Council should visit the locality and examine the question Accordingly, the Municipal Commissioner, the Municipal Engineer and other Officers of the City Municipal Council visited the site on 6-6-1945 On behalf of your Petitioner Company Mr N S Sirur, an old and experienced Manager of your Petitioner Company's Mills, who has since retired, Mr S R Tombat, the present General Manager of your Petitioner Company's Mills and other experienced

officers of the Mills were present at the discussion Mr Madhavan had a full and thorough discussion of the matter with the Officers of your Petitioner Company and agreed that the proposal of Mr Seshadri Iyengar would completely eliminate all possible danger to health and sanitation in the vicinity Mr Madhavan undertook to have the levels taken with a view to carrying out the works suggested by Mr Seshadri Iyengar and have the matter investigated by a Special Committee with the Chief Engineer to the Government (Irrigation) as Chairman and let your Petitioner Company's management know finally what action would be taken

9 Your Petitioner Company now understands that though a Committee has been constituted the question has not been gone into and no attempt to carry out the works suggested by Mr Seshadri Iyengar has been made and as stated above the Municipal Council has passed a resolution for the benefit of the small vacant low lying area to the east of the Platform Road Your Petitioner Company had no notice that the subject was being taken up for consideration nor any notice before the actual work was taken up Nor has your Petitioner had any notice up to date of what action has been taken in pursuance of the undertakings given by the Municipal Engineer Mr Madhavan

10 Your Petitioner Company respectfully submits that the purchasers of this low lying area must have purchased the lands with eyes wide open In fact in the contiguous areas buildings have been built already but the owners of these buildings have raised the ground level by filling in before putting up buildings The area still lying vacant is a very small area and your Petitioner Company ventures to think that only a very limited number of houses can be built thereon

Your Petitioner Company, therefore, respectfully submits that for the convenience of a few landlords the interests of an industry which supports thousands of operatives and large mercantile population in the City should not be sacrificed

11 Within the last 3 - 4 days the contents of the tank have been reduced by about 70 per cent and what was once a real tank has been reduced to a mere pond Summer conditions have already appeared in the water level of the tank in spite of the fact that we are still in the middle of the rainy season If the work is completed and the Waste Weir not restored to its former level there is very little hope that your Petitioner Company will have any water for its purposes in the very near future Your Petitioner Company apprehends that its Mills will have to be shut down very soon

12 As stated in your Petitioner Company's letter dated 12-8-1942 the tank water serves not only as a source of supply for the manufacturing processes but also as a standby reservoir for fire and other emergencies In any case your Petitioner Company submits that the action of the City Municipal Council is an out and out invasion of your Petitioner Company's property rights without any justification whatsoever

13 In the above circumstances your Petitioner Company feels that it is only in the fitness of things that the Benign Government of His Highness the Maharaja of Mysore should consider the whole matter and pass orders to protect the property rights of your Petitioner Company and that pending final orders an interim order should be passed directing the City Municipal Council to restore the Waste Weir and the apron to status quo The Petitioner Company suggests that, if need be, a local inspection of the site may be held and orders

as prayed for above may be passed

For which act of kindness your Petitioner Company will ever pray

For The [illegible]

ms

General Manager

BEFORE THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

Humble petition dated the 21st day of July 1947 of the Mysore Spinning & Manufacturing Co Ltd , Bangalore

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MOST RESPECTFULLY SHEWETH

1 On or about 14-7-1947 your Petitioner Company noticed that the Waste Weir and the apron of the Jakkarayanakere were being dismantled under the orders of the Engineering Department of the City Municipal Council As this was bound to prejudice the water supply of your Petitioner Company's mills, your Petitioner Company made a representation to the Municipal Commissioner who visited the spot by appointment on the morning of 17-7-1947 In the course of the discussion the Municipal Commissioner told your Petitioner Company that the City Municipal Council had passed a resolution sometime ago that the Waste Weir of the tank should be lowered so as to reduce the water level in the tank by 3 feet as a permanent measure The Municipal Commissioner also stated that this action was being taken in the interests of the health and sanitation of the locality On further discussion, however, showed that the action was being taken really in the interests of certain landlords who are trying to develop the land to the East of the Platform Road (which must have been once a part of the tank bed) into a residential locality without raising the general ground level

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officers of the Mills were present at the discussion. Mr Madhavan had a full and thorough discussion of the matter with the officers of your petitioner Company and agreed that the proposal of Mr. Seshadri Iyengar would completely eliminate all possible danger to health and sanitation in the vicinity Mr. Madhavan undertook to have the levels taken with a view to carrying out the works suggested by Mr Seshadri Iyengar and have the matter investigated by a Special Committee with the Chief Engineer to Government (Irrigation) as Chairman and let your Petitioner Company's management know finally what action would be taken

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10 Your Petitioner Company respectfully submits that the purchasers of this low lying area must have purchased the lands with eyes wide open In fact, in the contiguous areas buildings have been built already but the owners of these buildings have raised the ground level by filling in before putting up buildings. The area still lying vacant is a very small area and

your Petitioner Company ventures to think that only a very limited number of houses can be built thereon Your Petitioner Company, therefore, respectfully submits that for the convenience of a few landlords the interests of an industry which supports thousands of operatives and large merchantile population in the City should not be sacrificed

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12. As stated in your Petitioner Company's letter dated 12th August 1942 the tank water serves not only as a source of supply for the manufacturing processes but also as a standby reservoir for fire and other emergencies. In any case, your Petitioner Company submits that the action of the City Municipal Council is an out and out invasion of your Petitioner Company's property rights without any justification whatsoever

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passed directing the City Municipal Council to restore the Waste Weir and the apron to status quo The Petitioner Company suggests that, if need be, a local inspection of the site may be held and orders as prayed for above may be passed

For which act of kindness your Petitioner Company will ever pray

For The Lysore Spinnin and Manufacturing Company Limited,

Sd

General Manager

"Copy"

For Revenue Secy

Copy of letter No A 2027/42 dated 12th August 1942 from the General Manager, The Mysore Spg & Mfg Co ,Ltd , Bangalore, to The Municipal Commissioner, City Municipality, Bangalore

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Dear Sir, Re Jakkarayanakere

In inviting your kind attention to previous correspondence between your goodself, ourselves and our lawyer Mr B Shankar Rao, we beg to point out that the recent action of the City Municipality in interfering with our rights of easement by breaching the waste weir of the tank and thus lowering the water level by 1-1/2 ft is wholly unjustified and is a trespass on our property and rights We need hardly stress the fact that the water of the tank was given to us by the benign Government of His Highness The Maharaja of Mysore under G O No 7916-8/F & C 176-17-8 dated 8th February 1918 The Municipality has no right to interfere with our easement rights nor is there any justification for the action

We understand that this action was considered necessary by the Municipal Council in the interests of public health But it has been repeatedly brought to the notice of your goodself and the Municipal Council in the course of correspondence and in the course of several inspections by your goodself, the Municipal Engineer and the Health Officer that the real trouble is the omission of the Municipality to provide an efficient system of drainage for the sullage and sewage flowing into the channel from the extensions which have recently sprung up in the vicinity of the channel The remedy resorted to by the Council, viz , the lowering of the water level in the tank far from averting the evil would only aggravate matters The sullage and sewage which is now dissolved in a larger quantity of water will after the reduction in water level be dissolved in a smaller quantity of water and the conditions then produced will be more injurious to public health We understand on reliable authority that the Special Officers, City Drainage Division, both the present

present incumbent as well as his predecessor in Office have repeatedly pointed out to the Municipal Council that the present expedient will not at all relieve the apprehended danger to public health and on the contrary that it will only make matters worse In spite of this it pains us to see that the Municipal Council has decided on this course and carried out their decision regardless of public health or harmful consequences to us

We understand that the matter is likely to come up for discussion at the ordinary Meeting of the Municipal Council to be held on the 15th instant and we therefore request you to kindly have the matter re-considered and see that the Municipal Council give due and proper consideration to the matter We are a corporate body on whose activities thousands of people depend and it is only in the fitness of things that the Municipal Council which is also a corporate body should not interfere with the conveniences which have been so kindly given to us by the Government of His Highness The Maharaja of Mysore in the interests of the large community

In conclusion we request you to kindly place this matter before the meeting on the 15th instant so that the breach in the waste weir caused at present may be closed and the waste weir restored to its original level and such action as has been advised by the Special Officers, City Drainage taken to prevent the nuisance, if any

Yours faithfully,

sd/-

General Manager

Copy of Order No 7916 - 8/F C 176-16-8

Dated Bangalore, the 8th February 1918

After a careful consideration of the case Government are of opinion that they see no sufficient reason for showing to the Mysore Spinning and Manufacturing Company,Limited, any further concessions than are allowed to Messrs Binny & Co's Mills, i e , the use free of cost of the water in the adjoining tank and a payment of annas twelve per 1000 gallons of water taken from the Bangalore Water Supply

The President, City Municipal Council, is requested to arrange for a proper agreement being entered into with the Company in regard to the free supply of water from Takkarayan tank if no irrigation or other communal rights are interfered with by the said arrangement Similar arrangement should be made with the Binny and Company Mills for the use of the water from the tank adjacent to their Mills

sd/-

for Secretary to Government,
Departments of Education & Agriculture

Copies to -

The Agents, Mysore Spg & Mfg Co ,Limited,

Chief Engineer of Mysore, returning the enclosures received with his No un-official 10 dated 17th January 1917

Honorary President, City Municipal Council,Bangalore

Copy of Note on the measures necessary to prevent stagnation of water in the feeder channel of Jakkarayanakere near the Mysore Spinning and Manufacturing Co ,Ltd , Bangalore

The feeder channel to the Jakharayanakere brings into the tank storm water from the catchment area comprising Seshadripuram Guttahalli and other extensions of Bangalore City With the rapid growth of new extensions in the area and for want of proper drainage arrangements, the sullage from these extensions finds its natural outlet into the feeder channel This flow of the sullage into the channel cannot be prevented until the Seshadripuram, Guttahalli, Anniappa's Block and other extensions in the area are completely sewered and all sewage led into the underground drainage system This is a work costing a couple of lakhs and can only be taken in bits and completed in the course of next two or three years

The bed of feeder channel in the neighbourhood of the Mysore Spinning Mills is 2 to 3 feet below the full tank level of the Jakharayanakere with the result that when the tank is full or nearly so, water backs up in the channel for a length of about 1000 feet up to the culvert on the link road The sullage water which gets mixed up with the back water stagnates causing nuisance and rendering the entire locality very unhealthy and insanitary

The stagnation of water in the channel can be prevented either by lowering the weir of the tank by 3 feet or by raising the bed of the channel sufficiently above the level of the weir It is not desirable to lower the weir since it would reduce the capacity of the tank and affect seriously the interests of the Mills who are making use of the storage for their industry If the weir is lowered the volume of water in the tank will get reduced and the constant inflow of sewage from the feeder will decrease the percentage of dilution and will foul the entire tank affecting seriously the health of the locality .

[redacted] 1 draft

L 1461
v3747

Dear Sir,

I am directed to forward herewith a copy of the petition dated ~~[illegible]~~ 21-4-47 received from the General Manager, Peryove Spinning and Manufacturing Co Ltd - Bareilly, protesting against the action of the city Magistrate in breaching the ~~[illegible]~~ wall of the Jalkarayan tank and to state that further action in this behalf may be stayed pending ~~[illegible]~~ inspection by the Minister for Education and Public Health who will visit Bareilly at 9 A.M.

make it convenient to be present

at inspection

The receipt of this letter may be

kindly acknowledged

Yours sincerely

[illegible]

[illegible]

[illegible]

III Draft

Immediate

L 1663

13 7 47

Dear Sir,

I am desired to forward herewith a copy of the petition dated 21-7-47 received from the General Manager, Mysore Spinning and Manufacturing Co Ltd - Bilwar - re the poaching of the workers of the Jakkarayanakere - Bangalore city, and to state that the Minister for Education and Public Health would inspect the place at 9 A M on 27-7-1947

I am to request that the officers

of the Trust Board may be present at the time of inspection

The receipt of this letter may be kindly acknowledged

Yours Sincerely

29/7/69

To
Sri Narasimha Rao Esq
BA BL
Chairman, C & T Board
Bangalore

Immediate IV Order

L 1464
23/7/47

To

The General Manager
The Mysore Spinning and Manufacturing Co Ltd
Bangalore

Sir,

In reply to your petition dated 21-7-47 addressed to the Minister for Education and Public Health, regarding the ~~~~ breaching of the wastewear of the Jakkarayanakere by the Bangalore City Municipality, I am directed to inform you that the Minister for Education and Public Health will inspect the place at 9 A M on 27-7-1947

I am to request you to kindly make it convenient to be present at the time of the inspection

The receipt of this letter may please be acknowledged

Yours faithfully
for
23/7/47

P To

Memo no. Lr/1465 dt 23/7/69

Copy sent to the Municipal Commr
Bangalore City for info

The Chief Engineer (Water Supply and Sewerage) and
Officers of the ~~Bangalore~~ Bangalore C & T Board have
also been requested to be present at the
inspection

pro
23/7/69
for Revenue

REVENUE SECRETARIAT
890
AUG 1947
RECEIVED
BANGALORE

~~Executive Engineer, Bellary Division, Bellary~~

~~Copy forwarded to the Chief Engineer for Irrigation~~

OFFICE OF THE CHIEF ENGINEER FOR IRRIGATION BANGALORE

Dated, 23rd July 1947

D.O 131

Dear Sir,

I ~~am desired to~~ acknowledge receipt of your letter D O No 1462 dated the 23d July 1947, along with the enclosure + Statement showing the Progress of Forest Survey

Yours sincerely,

G Ramachandra Rao, Esq B A
Assistant Secretary to Government
Revenue Department, Bangalore

REVENUE SECTT
440
2 11 7
ML

GEN & REV SECRETARIAT
890
9 AUG 1947
BANGALORE

D No 506-46

Mr C N NARASINGA RAO BA BL
Ch m

CITY IMPROVEMENT TRUST BOARD

Bangalore dated 25th July, 1947

D O No 24/47

Dear Mr Ramachandra Rao,

I have your D O letter No L 1463 - dated 23rd instant asking me to be present with the Officers of the Trust Board, at the time of inspection of the Waste-weir of Jakkarayanakere Tank, by the Minister for Education & Public Health on 27-7-1947 at 9 A M I shall accordingly be present at the spot with the Engineer Officer and the Assistant Engineer, Drainage Division

Yours sincerely,

C N Narasinga Rao

25/7

G Ramachandra Rao, Esq ,B A ,
Assistant Secretary to Government,
L S G Branch,
General & Rev Secretariat,
BANGALORE

I 578
GOVERNMENT
CEN. & REV. SECRETARIAT
890
9 AUG 1947
BRANCH

NOTE ON THE USE OF THE WATER OF JAKKARAYANAKERE BY THE MILLS

This may be linked up with the other papers connected with the subject
JHS
20/8/47
Rev Secy

As will be presently shown, it is only within the last 6 or 7 years that the City Municipality has been asserting a right in the name of Public Health and Sanitation, to interfere with the levels and quantity of water in the tank by draining it off in whole or in part Prior thereto there was not even a whisper of such a claim Before upholding the claim, the Government should consider whether the remedy sought to be applied is appropriate to the object sought to be achieved and also whether there are not factors of equally (if not greater) paramount importance on the side of the Mills In any case, if there are alternative remedies which can serve both the interests, such alternatives and such alternatives alone should be adopted and applied

COLLECTION OF WATER RATE
Date 6/8
No 96

The Mills pay annum per annum about Rs 8½ lakhs by way of Income-tax and Super-tax, about Rs 1½ lakhs on account of Electric charges and about Rs 72,000/- by way of Municipal property and other taxes and other miscellaneous revenue to the State and the Municipality It supports about 4000 workers and their dependents It provides a source of livelihood to all those merchants and their dependents, who deal in its products and from whom it buys its raw material and plant requirements These merchants in their turn are a source of revenue to the State and the Municipality Its Managing Agents, selling Agents and the Superior Staff also provide several lakhs of rupees revenue to the State and the Municipality And in these days of cloth famine, it makes its entire output of cloth and yarn available for consumption within the State and to that extent supplies one of the vital wants of people all over the State It is respectfully submitted, therefore, that if the working

of the Mills is jeopardised, all these vast vested interests will be affected prejudicially

An attempt will be made in the course of the note to show how the reduction of the water in the tank will not solve the problem of Public Health and Sanitation and how the problem is being approached from wrong points of view by the Municipality It is first requisite, however, that the origins and history of the problem must be appreciated in proper perspective against a background of the true facts of the case

It is unnecessary, however, for such purposes to go into the remote past and trace the origins of the right of user of the tank water by the Mills There are no documents which throw any light on the point Suffice to say that the site for the Mill, which had been sponsored by the Government of His Highness the Maharaja of Mysore, must have been selected on account of its close proximity to this large body of water Textile factories require large quantities of water for their processes and their insurance requirements

At that time this area was not within Municipal limits It was brought within such limits only in 1896 by which time the user of the water by the Mills had ripened into an easement as against the Municipality by prescription and long user

The benign Government of His Highness recognised this right of the Mills in G O No 7916-8/F C 176-16-8 dated 8-2-1918 This Government Order was expressly based on the very report of the then President of the Municipality himself that the Mills had been using the water for a long time past (vide the documents recited in the preamble of the Order) This Government Order constituted the President of the City Municipality only a persona designata for entering into an agreement with the Mills embodying

the terms of the Order Such terms were that the Mills should have the free use of the water subject to the rights of irrigation and other communal rights to the water These rights may be compendiously styled Riparian rights

A bare perusal of the Order will show that no rights were vested or were intended to be vested in the Municipality to interfere in any manner with the use of the water by the Mills The only reference to the Municipality was in connection with its President being named as the other party to the agreement which, but for this Order, would have named the Government as the other party

Yet under the guise of this circumstance the City Municipality has at all relevant times and from time to time after the date of the Government Order imposed obligations on the Mills which, strictly speaking, are its statutory duties and functions A few instances are given below

(a) At one time the Bangalore - Tumkur Road was girdling round the Mills When the area was brought within Municipal limits, the Municipality constructed the Venkatarangiengar Road connecting the Subedar Chatram Road at the bend In the course of the formation of these roads, a very deep hollow between the Mill premises and the road had been left uncovered When the Mills were constructing their compound wall in the year 1919, the Municipality insisted that for improving the appearance of this part of the locality, the Mills should extend their compound wall so as to screen off this hollow The work of filling in this hollow meant enormous expense It was part of the tank bed originally and involved filling and levelling work on a very large scale Though the Mills were unwilling to incur the expense at the request of the Municipality, they undertook the work and in the interests

of the safety of the workers, they had this hollow filled in at a cost of several thousands of rupees This was as long ago as 1919 and on account of the lapse of time and on account also of the fact that the bulk of the amount has been by way of wages to workmen, the exact figure cannot be ascertained, but the amount has been considerable

(b) In the year 1928, Mr H F Marker who was then Executive Engineer, Sanitary and Town Planning Division, seems to have suggested to the Municipality a certain scheme for the drainage of sullage and sewage from the Malleswaram, Seshadripuram and Old Sowar Line suburbs of the City which was till then running into this tank This scheme included the drainage of the trade effluents of the Mills for which the Mills were making their own arrangements The Municipality insisted that the Mills should abandon their own scheme and arrangement and contribute half the estimated cost of Mr Marker's scheme Though this proposition was disproportionately onerous against the Mills, it was agreed to and the Mills paid Rs 11,500/- being 50% of the estimated cost according to Mr Marker's report and thus cooperated with the Municipality in improving the drainage and sanitation, which is primarily the duty of the Municipality

When the work was being carried out, the Mills took the liberty of pointing out to the Municipality that the pipes laid would be found in due course of time too small to meet the requirements in view of the fact that these localities were growing extensions and would increase in population Nevertheless the Municipality laid only 12" drain pipes which have now become useless for taking the load of these localities Houses and population have grown beyond all expectations in these localities since those times and though this growth of the extensions has gone on under the aegis of the Municipality, they have made

no attempt to improve the drainage commensurate with the increase in the load This omission has in no small measure given rise to the present problem

The only drainage that they have provided for the Link Road and other extensions which have recently sprung up in the catchment area of the tank is the deep and wide channel running from Sankey's Tank to this tank It is respectfully submitted that it is precisely this channel that has brought the problem into such prominence and intensified it These points will have to be adverted to again

The Mills also beg to point out that the outfall works including the septic tank forming part of Mr Marker's scheme have not yet been completed by the Municipality in spite of the lapse of 19 years

(c) The extensions were fast growing diem per diem and the problems of sanitation and drainage were also getting more and more intensified But the Municipality has carried out no drainage works at all in the locality to keep pace with the growth of the extensions Matters were brought to a head during the year 1934 Sir Mirza Ismail, K C I E ,O B E , the then Dewan of Mysore, visited the locality several times at or about the time and presumably had the whole problem considered by his experts The Mills do not know what conclusions were reached about the improvement of the drainage But so far as the Mills were concerned, he (Sir Mirza Ismail) and the then Municipal Commissioners insisted that the Mills should acquire the bed of the small tank to the east of the Railway embankment at a price and deepen it and build up its sides It was also stated that the Municipality would at its own cost improve the channel which was running to the east of this small tank leading the water from under the culvert at the bend of Venkatarangiengar Road into the tank area

Sir Mirza also insisted that after this channel was thus improved, the Mills should erect a parapet wall and ornamental fencing and a foot-path between the channel and the Main Road, so that the tank and its appurtenances would not be exposed to public view from the road Eventually even the work of improving the channel was delegated to the Mills on the ground that the right of the Mills to the use of Jakkarayanakere water had been recognised by the Government and the tank would be maintained for the benefit of the Mills The late Mr D N Sirur was the Managing Agent of the Mills at the time and as between him and Sir Mirza who was issuing the directions, their word on either side was as good as their bond and the Mills did not insist upon having all these terms reduced to writing

In pursuance of this understanding, the Mills carried out the work departmentally Over 150 men were employed daily on the work The small tank was deepened and its sides rivetted with granite stones The channel was deepened and built up with stone and the parapet wall, the foot-path, the ornamental palisading and fencing were all constructed at the cost of the Mills It involved enormous trouble and cost The Mills had to be kept working all the time and the small tank could not be drained off The work of deepening had to be carried out in bits without drying the tank Ring bunds had to be erected temporarily in smaller divisions of the tank so as to conserve the water and the deepening had to be carried out bit by bit A very huge quantity of silt had to be removed and stacked and again removed away from the scene Everyone who passed along the road at the time could bear testimony to the care, attention and trouble bestowed on the work by the Mill management The work took more than two years to reach completion

The cost of materials alone is as follows -

(a)	Cost of tank bed and the appurtenant small bit of land	Rs 3,219- 0- 0
(b)	Cost of material - stone etc used for the small tank	Rs 10,443-15- 1
(c)	Cost of material employed on diverting the channel	Rs 4,336- 7-11
(d)	Cost of material employed in the parapet wall, foot-path extension and palisading and fencing	Rs 3,700- 9- 5
	Total	Rs 21,700- 0- 5

The wages paid, which would easily amount to about Rs 40,000/-, have not been taken into this account as they have gone into the general Wages Account But it must be remembered that 150 men were employed on the work for a period of over two years This enormous expense was incurred by the Mills in times of depression for enhancing the aesthetic beauty and improving the sanitation of the locality, because an easy source of water supply had been assured to them The Municipality had been directed to maintain the tank and effect all extraordinary repairs

Soon after this work was over, the Mills mooted the question of the agreement, but it was only in 1938 that the Municipality apparently took up the matter Under cover of letter No A1-1804 -35 dated 11-10-1938 the Municipal Commissioner sent to the Mills a draft of an agreement for approval The draft subscribed by Mr Rangappa in authentication is in the file of papers and will be produced if necessary A bare perusal of the draft will show that there was not even a remote idea at that time of reserving to the Municipality a right to interfere with the tank waters Indeed it proves beyond doubt that till 1938 nobody suggested that the Municipality had any such power or was meant to be given any such power A copy of the draft is annexed for ready reference

This agreement was not completed because the Mills

were described as "licensee" A license is terminable without notice at any time at the sweet will and pleasure of the grantor The right of the Mills was as shown above either an easement or a Crown Grant Eventually it was agreed by and between the then Municipal Commissioner, Mr S Narayana Rao, and the Chairman of the Board of Directors of the Mills that the Mills should be described as "lessees" of the water and the tank under a permanent lease

It was apparently at this stage that Mr Narayana Rao placed the draft agreement before the Municipal Council Why or when or how he did so has not at all been made clear The Council took advantage of this opportunity and seems to have suggested that a clause reserving to it the right to interfere with the levels and water of the tank should be inserted in the agreement And at all subsequent times the Municipal Council has been causing great anxieties by every now and then cutting the bunds and lowering or attempting to lower the waste weir of the tank It is significant, however, that every time on protest by the Mills, the Municipality stopped the work This time, however, the attempt seems to be more deliberate and determined

Public Health and Sanitation are undoubtedly factors of great importance But the whole problem is due to the following main factors -

(1) The Municipality has permitted the growth of habitations in the catchment area of the tank without at the same time keeping pace in the matter of providing amenities of sanitation and drainage to the over-populated areas In fact the drainage for the sullage and sewage of the Malleswaram, Seshadripuram and Old Sowar Line extensions was laid as stated above in 1928 and no improvements have been since made though the population and habitation in

these parts has by far exceeded the fondest dreams of town planning experts That the works carried out in 1928 were inadequate had been pointed out to the Municipality even at the time But the Municipality paid no heed to the caution

(2) A very big extension has grown in the catchment area of the tank and no provision for the sewage and sullage from this area has been made by the Municipality On the contrary, they have deepened and widened the storm water channel so as to drain this sewage and sullage into this tank The result is that during the rainy season the filth accumulates at the point where the channel discharges into the tank and the contaminated water is backed up on account of the disparity in levels This backing does not exist during the dry seasons of the year at all

Ordinarily, no volume of pure storm water, however large, can be unhealthy Tanks and ponds exist in the hearts of cities and in public parks The Jakkarayanakere is ordinarily nothing but pure storm water and if the agreement had been executed with the clauses in the draft of 1938, the Mills would have taken care to keep it uncontaminated

If this large body of water is drained off, the quantity of water available for disintegration and dilution of the filth flowing into it including the sewage and sullage from the recent extensions will be reduced The filth will accumulate in this large area in the form of stinking slush and get deposited over this vast area The tank will then become a real menace to public health and sanitation

In 1942, the Municipality broke open the bunds and the waste weir on the south-western side of the tank The Mills protested and at the instance of the then President

of the Municipal Council, the Municipal Commissioner and the Mill authorities, Mr N R Seshadri Iyengar, the then Special Officer in charge of the City Drainage Division and now Superintending Engineer, went into the matter and suggested certain alternative works for stopping the nuisance The Mills offered to execute the work at their own cost which was then estimated at Rs 10,000/- The Municipality refused to agree without showing any reason whatsoever and without suggesting any other alternative

Since then, this controversy has become almost a recurring annual in the relations between the Mills and the Municipal Council Every now and then, the Municipality has been assuming or trying to assume jurisdiction in the matter by passing resolutions and trying to lower the water level in the tank In 1945, the Municipality made its penultimate attempt to cut open the bunds The Mill authorities made a representation to the then Municipal Commissioner and the work was stopped pro tem Later on, Mr Safi Darashah, the present Municipal Commissioner, Mr Madhavan, the present City Improvement Trust Board Engineer (who was then the Executive Engineer of the Municipality), Sir Vithal Chandavarkar, the Chairman of the Board of Directors of the Mills, Mr N S Sirur, the retired General Manager (who has nearly 50 years' experience of the locality and the vicissitudes of the tank water and sanitation of the locality), Mr S R Tombat, the present General Manager, and the Legal Adviser of the Mills met in the chambers of the Municipal Commissioner and the matter was discussed threadbare Mr Madhavan undertook to inspect the site and go into the matter more carefully having regard to all interests concerned Accordingly, he visited the channel at 9 a m on Wednesday 6-6-1945 and went over the locality in the company of Mr N S Sirur and Mr S R Tombat and other officers of the Mills After

going into the matter in every detail and after examining the channel, its culverts etc , Mr Madhavan instructed his subordinates to take levels at the culverts, under-sides of the slab, vent-ways etc and promised to go into the matter more carefully with the help of a Special Committee appointed for the purpose

The present attempt to breach the tank and lower the waste weir and the water level was made at 5 p m on Saturday the 12th July 1947 The Municipal Council knew very well the contention of the Mills, viz , that the Municipal Council had no jurisdiction to interfere in this matter The Municipal Commissioner was well aware that the Mills have been always claiming that but for the tank water supply, the Mills would have to stop work And yet, without giving any notice to the Mills, the bunds were cut and the waste weir lowered When the representatives of the Mills saw the Municipal Commissioner, he frankly told the Mills that at the date of the resolution of the Municipal Council a new factor had cropped up He said that the owners of the land to the east of the Platform Road, which was once a part of the tank bed, had begun to complain of stagnation of water on this land and their consequent inability to develop the area into building sites The Municipal Commissioner also stated that this factor had weighed with the Municipal Council when the resolution was passed Thus, two reasons have come into existence where, till recently, there was only one The Mills submit that both these reasons are untenable

Public health is no doubt a vital consideration, but it cannot be said that people trying to develop tank beds into building sites without raising the ground level have a legitimate grievance on the score of public health It is respectfully submitted that while public health is no doubt a matter of great importance, the working of the Mills

is of equal if not greater importance Vast vested interests are bound to be affected prejudicially if the Mills were to stop work The Mills entirely depend upon the tank for their water supply They require about one lakh of gallons per diem for their processes and a standing quantity of two lakhs of gallons as a reservoir for fire accident and other emergencies The Municipality has up to date not provided nor suggested any alternative water supply and from information available it appears as though no water in the quantities required by the Mills can be given from any source whatsoever just at present It is respectfully submitted, therefore, that any action taken for any purpose must have due regard to all interests involved and not be intended to serve the interests of a few landlords or owners of property to whom it is the duty of the Municipal Council to provide amenities such as drainage etc

In conclusion, the Mills submit that the status quo must be restored and the alternative works suggested by Mr N R Seshadri Iyengar must be carried out temporarily and a trial given to this scheme The Mills are prepared to contribute the entire cost estimated by Mr Seshadri Iyengar, viz , the sum of Rs 10,000/-

Yours faithfully
for Binny & Co (Madras) Ltd
Manager

BANGALORE
July 30, 1947

ms

G R S App I VI—G 2]

SUBJECT

Diary No of letter replied to

General and Revenue Secretariat

( )

the *19*

Date of issue 22/7/47 1947

Signed by M G R [illegible]

May this be—

(i) printed?

(ii) treated as a standing order?

(iii) published in the Gazette English Part?

(iv) translated?

(v) placed at the disposal of the Press?

(v) published in the Gazette, Kannada Part?

19 copies

Section M

File No 85-47

Serial No 1

Proceedings of the Government of His Highness the Maharaja of Mysore

Read—

Correspondence ending with the petition dated 21-7-47 & received from Messrs The Mysore Spinning and Manufacturing Co dtd - Bangalore requesting that necessary ~~steps may be taken and~~ ~~Order thereon. &c~~ instructions be issued to the Municipal Commr Bangalore City not to interfere with the levels and quantity of water in the Sakkaravayanakere Tank, Bangalore City-

2) A note dated 30-7-47 received from Mr A Shankara Rao

Advocate and Counsel for the Mills, regarding the use of the water of the Jakkakayanakere tank by the Mills

Order No L 3061-8 dt 85-47-1 dt 2-7 Aug

with a view to consider the several points urged by Mr B Shamkara Rao, Advocate for the Mills (The Mysore Spinning and Manufacturing Co Ltd) in his note dated 30-7-47 ~~Madras~~, ~~Copy enclosed~~ regarding the use of the waters of the Jakkavayanakere tank by the ~~Co~~ Sandy Mills and the lowering of the waste weir of the said tank, Govt are pleased to appoint a Committee consisting of the undermentioned Officers and gentlemen to go into the question and to submit a report to the Govt ~~with~~ in about a fortnight

-x

1) The Chief Engineer for Irrigation - Chairman
2) " Chairman, City Improvement Trust Board - Bangalore
3) " Director of Public Health in Mysore
4) " President City Municipal Council Bangalore
5) Municipal Engineer to Bangalore City
6) ~~Copied by~~ Government Architect
7) " Municipal Engineer - Bangalore
8) Representatives of the Mills

WD 03006-GRB—30 000—2 2 40

2) ~~The Meeting may be held in the~~ Chambers of the Chief Engineer for Irrigation in Mysore at 9 A M on 26-8-47

~~— P 8~~ 21/8
for Revenue Secy

The Chief Engineer for Irrigation ✓
" Chairman C & T Board — Bangalore ✓
" Director of Public Health in Mysore ✓
" President, City Municipal Council Bangalore ✓
" Municipal Engineer Bangalore City ✓
" Govt Architect ✓
" Municipal Engineer Bangalore City ✓
" ~~Bangalore~~ letter to Govt ✓

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

NOTICE

L 3069-74

To

d. 22/8/47.

Dear Sir,

I am desired to state that a meeting of the Committee appointed in Government Order No dated 2nd August 1947 to consider the points urged in the ~~petition~~ note presented to the Minister for Education & Public Health, on 30th July 1947 by Mr B Shankar Rao Advocate, on behalf of Mysore Spinning and Manufacturing Coy., Ltd., Bangalore City regarding the use of the water of the Jakkarayankere tank by the Mills, will be held at 9 A.M. on the 26th instant in the office of the Chief Engineer for Irrigation, Old Public Offices Bangalore. you are requested to make it convenient to attend the meeting

Yours sincerely,

1 The Chairman, City Improvement Trust Board, Bangalore City
2 " Director of Public Health in Mysore
3 " Municipal Commissioner Bangalore City
4 " Government Architect Bangalore
5 " Municipal Engineer Bangalore
6 " ~~Mxxxxx~~ President, City Municipality Bangalore City
Fx

L. 3075 of 22/8/47.

Copy of the foregoing is forwarded with compliments to the Chief Engineer for Irrigation in Mysore, Bangalore, for information and necessary action

By Order,

22/8

SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT

GENERAL & REVENUE SECRETARIAT

D O *Dated Bangalore* *194*

Sir,

I am directed to forward herewith a copy of the report No. 306/-8/WES-4x4 dated 24-8-47 regarding the use of the waters of the Jalahalli tank for the Tyrore planing and surface fire Pvt., Ltd., Bangalore City, and to request you to be so good as to move Government to attend a meeting to be held in this connection on the 7th instant at 9 A.M. in the office of the Chief Engineer for Irrigation, Public Offices, Bangalore, for the purpose of considering the question.

Yours obedt. servt.,

3 Com'l L 3076
11/8/47

To

Mr B Sharkar Rao, B A.,B L ,
Advocate and Counsel for the Mills,
(Messrs The Mysore Spinning &
Manufacturing Coy , Ltd ,),
Bangalore City

S i r,

With reference to your ~~representation~~ note dated 30th July 1947 presented to the Minister for Education and Public Health regarding the use of the waters of the Jakkarayankere Tank by the Mills, I am ~~directed~~ desired to state that the Government have appointed a Committee to examine the several questions connected therewith ~~with the same~~ A copy of the Government Order is sent enclosed herewith for information

2 A meeting of the Committee will be held at 9 A M on 20th August 1947 in the Office of the Chief Engineer for Irrigation ~~& Electricity Undertakings~~ I am to request you to make it convenient to attend the said meeting along with the ~~other~~ representatives of the Mills

Yours faithfully

Com'l L 3077 8
Secretary 8/8/47

W/c
Copy forwarded to the ~~Manager~~, Mysore Spinning and Manufacturing Coy , Ltd , for information ~~and necessary action~~ with reference to his letter dated 30th July

By Order,

21/8
SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

No L 3076

General and Revenue Secretariat,

Dated Bangalore 7/8/ *194*7

FROM

The Secretary to the Government of
His Highness the Maharaja of Mysore
Revenue Department.

To

Mr. B. Shankar Rao, B.A., B.L.,
Advocate and Counsel for the Mills,
(osers. The Mysore Spinning & Manufacuring Co., Ltd.,
Bangalore City.

SIR,

With reference to your ~~notice~~ note dated 30th July 1947 presented to the Minister for Education and Public Health regarding the use of the waters of the Ja Kara/anakere Tank by the Mills, I am desired to state that the Government have appointed a Committee to examine the several questions connected therewith. A copy of the Government Order is sent enclosed herewith for information.

2. A meeting of the Committee will be held at 9 A.M. on the 26th August 1947 in the Office of the Chief Engineer for Irrigation, Old Public Offices, Bangalore. I am to request you to make it convenient to attend the said meeting along with the representatives of the Mills.

Yours faithfully,

Sd/- Syed Abdul Aleem,

Secretary to Government,
Revenue Department.

Memo No. L 3077

Dated, Bangalore, 22nd August 1947.

Copy of the above is forwarded with compliments to the Secretary, Mysore Spinning and Manufacturing Coy., Ltd., for information with a copy of the Government Order in question.

By Order,

for Secretary to Government,
Revenue Department.

82

G.R.S III—3]

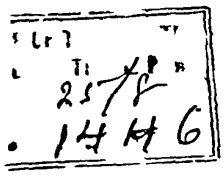
Routine Notes.

To be used only for notes requisitions etc not intended for permanent record]

Sent with a draft letter
for personal
signature before despatch
1/9 received from
A reply has also
been received since
please look up

5/9/47

for



N.B.—Should routine notes be written small slips, the notes must be copied or slips pasted on this form

G R.8 III—3]

Routine Notes

[To be used only for notes requisitions tc not intended for permanent record]

N.B.—Should ro h notes b written sm ll slips, the notes must be copied or slips pasted on the form

MYSORE PUBLIC WORKS DEPARTMENT

SECRETARIAT REV SEP 1947

B SHANKER RAU BA LLB
ADVOCATE AND NOTARY PUBLIC

8, Edward Road,
BANGALORE

Date August 25, 1947

The Secretary to the Government
of His Highness the Maharaja of Mysore,
Revenue Department,
BANGALORE

SECRETARIAT GEN CLERICAL
1125
25 AUG 1947
SECRETARIAT BRANCH

Sir,

With reference to your letter No L 3076 dated the 22nd August 1947, I have been asked by my clients, the Mysore Spg & Mfg Co Ltd , to bring to the kind attention of the Government that discussions at Committee stage had already taken place on the occasion of the Hon'ble the Minister's visit to the site for local inspection All the officers now nominated to the Committee were present and took part and all the points embodied in my note had been raised by me As such a report on the points raised by me in my note from the Municipal authorities who are the other party interested or such other authorities as may be concerned in the matter will sufficiently elucidate matters to the Government and place all material necessary for enabling the Government to come to conclusions

My clients have placed before the Government their points of view and the interests which the industry serves both vis-a-vis the Government and vis-a-vis Society and the Municipality My clients have no doubt whatsoever that the Government will come to conclusions having due regard to all interests It was this profound and abiding sense of confidence in the benign Government that impelled my clients to approach the Government in the first instance instead of seeking redress through Courts of Law My clients venture to submit, therefore, that the proper procedure now would be to call for a report from the Municipal or other authorities on the points raised by me in my note and hear both the parties, if need be, and decide the matter

In spite of these considerations and in view of the fact that notice for any action to the contrary is too

GEN & REV SECTT ANNEX
1 SEP 1947

short, my clients will depute their representatives to attend the conference but on the distinct understanding that their participation in the deliberations of the Committee will be entirely WITHOUT PREJUDICE to their rights My clients would have been very grateful if the Minister in charge of the portfolio had kindly seen his way to preside over the Committee It would perhaps have averted unnecessary discussions But in obedience to the Government Order my clients will participate in the Committee WITHOUT PREJUDICE as stated above

Yours faithfully,

Mankeede

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G R.S III—3]

Routine Notes

[To be used only for notes requisitions tc not intended for permanent record]

N.B.—Should routine notes be written small slips, the notes must be copied or slips pasted on the form

MYSORE PUBLIC WORKS DEPARTMENT

GEN & REV SECRETARIAT
4 SEP 1947

To

The Chief Engineer for
Irrigation

Subj - Agreement to be executed by the Authorities of the Mysore Sporting & Manufacturing Co Ltd for the use of the waters of the Hakkaraymakere Tank - Bangalore City

Sir,

In inviting reference to this office letter No 3075, dated 22-8-47 on the above subject I am directed to request you to kindly intimate the

G R.8 III—3]

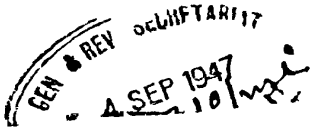
Routine Notes

[To be used only for notes requisitions tc not intended for permanent record]

action taken by you in the matter

Yours Rev Revd Secy

MYSORE PUBLIC WORKS DEPARTMENT

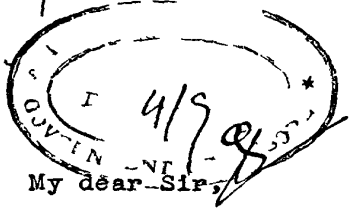


Rajakaryaprasakta
M NARASIMHAIYA Esq BA CE MIE(Ind)
Chief Engr & Secy

MYSORE PUBLIC WORKS DEPARTMENT
CENTRAL OFFICE IRRIGATION

D O No PC 62/2

Dated Bangalore the Aug 28, 1947

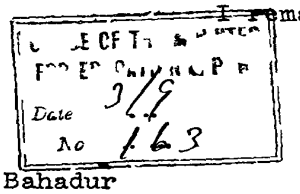


My dear Sir,

I enclose for your kind information a copy of letter received from Sir Vithal Chandavarkar I am awaiting his note on the discussions promised by him for submitting my report to Government A copy of my reply to him is also enclosed

With high regards,

I remain,



Yours sincerely,

M Narasimhaiya

Diwan Bahadur
Dr T C M Royan, M D ,
Minister for Education & Public Health,
Bangalore

G R.8 III—3]

Routine Notes

[To be used for requisitions etc not intended for permanent record]

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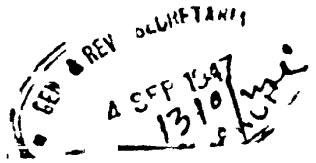
MYSORE PUBLIC WORKS DEPARTMENT



Letter dated 26-8-1947 from Sir V N Chandavarkar

'ear Mr Narasimhiah,

Before I leave for Madras, I feel I ought to thank you for the great trouble taken by you in bringing about an amicable settlement on the question of the water supply to the Mills At this morning's conference, we had our Stenographer present who has taken notes of what transpired I shall send you a copy of the note on the discussions that took place and the decision arrived at at the conference on my return from Madras on Monday next In the meantime, I have to request you to place on record the agreement that was arrived at that till the new source of water supply is made available to the Mills and actually starts functioning, no further action should be taken to disturb the present water level in the Jakkarayanakere tank

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"COPY"

N Narasimhiah